

In the Matter of ELECTRO-MOTIVE DIVISION OF GENERAL MOTORS CORPORATION and GENERAL TEAMSTERS, CHAUFFEURS & HELPERS' UNION OF MAYWOOD AND VICINITY, LOCAL NO. 782, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, CHAUFFEURS, WAREHOUSEMEN & HELPERS OF AMERICA, A. F. OF L.

Case No. 13 R-1953.—Decided December 14, 1943

Messrs. Henry M. Hogan, H. S. Benjamin, Jr., and William J. Oldani, by Mr. William J. Oldani, of Detroit, Mich., for the Company.

Mr. Kenneth M. Hindley, of Chicago, Ill., for the Teamsters.

Mr. Joseph W. Kulkis, of counsel to the Board.

DECISION

AND

DIRECTION OF ELECTION

STATEMENT OF THE CASE

Upon a petition duly filed by General Teamsters, Chauffeurs & Helpers' Union of Maywood and Vicinity, Local No. 782, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L.,¹ herein called the Teamsters, alleging that a question affecting commerce had arisen concerning the representation of employees of Electro-Motive Division of General Motors Corporation, McCook, Illinois, herein called the Company, the National Labor Relations Board provided for an appropriate hearing upon due notice before Robert Ackenberg, Trial Examiner. Said hearing was held at Chicago, Illinois, on November 9, 1943. The Company and the Teamsters² appeared, participated, and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to introduce evidence bearing on the issues. The Company's motions to dismiss the petition were reserved for the Board by the Trial Examiner. For reasons hereinafter set forth, the motions are hereby denied. The Trial Examiner's rulings made

¹ The designation of the Teamsters appears herein as amended at the hearing.

² Although served with the notice of hearing, the International Union, United Automobile, Aircraft & Agricultural Implement Workers, C. I. O., herein called the C. I. O., did not enter an appearance at the hearing.

at the hearing are free from prejudicial error and are hereby affirmed. The parties were afforded opportunity to file briefs with the Board.

Upon the entire record in the case, the Board makes the following:

FINDINGS OF FACT

I. THE BUSINESS OF THE COMPANY

General Motors Corporation is a Delaware corporation, authorized to do business in the State of Illinois. It operates several unincorporated divisions, one of which is the Electro-Motive Division. The Electro-Motive Division operates and maintains a plant at McCook, Illinois, where it is engaged in the manufacture of locomotives, military equipment, and ordnance material. This proceeding involves the McCook, Illinois, plant. More than 70 percent of the \$1,000,000 value of the raw materials and prefabricated parts used in the McCook plant is shipped to the plant from points outside the State of Illinois, and more than 70 percent of the \$1,000,000 value of its finished products is shipped to points outside the State of Illinois. The Company admits that it is engaged in commerce within the meaning of the National Labor Relations Act.

II. THE ORGANIZATION INVOLVED

General Teamsters, Chauffeurs & Helpers' Union of Maywood and Vicinity, Local No. 782, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, is a labor organization affiliated with the American Federation of Labor, admitting to membership employees of the Company.

III. THE QUESTION CONCERNING REPRESENTATION

On February 4, 1941, the Board certified the C. I. O. as the exclusive representative of the Company's production and maintenance employees.³ On October 19, 1942, the Company and the C. I. O. executed an exclusive bargaining contract covering the foregoing unit. The contract was to be in force until October 5, 1943, subject to sixty (60) days' written notice of modification or termination before the expiration date, and provided that if neither party gave such notice, the contract was to continue in effect indefinitely after the expiration date, subject to the same defeasance condition. Neither party has exercised the option to modify or terminate the contract. In July 1943, more than 60 days prior to the expiration date of the aforesaid contract, the Teamsters filed a petition seeking to represent a unit consisting

³ *Matter of Electric-Motive Corporation, a Delaware corporation and International Union, United Automobile Workers of America, Local 719, affiliated with the Congress of Industrial Organizations*, 29 N. L. R. B. 393. The truck drivers were not excluded from the unit.

of all outside truck drivers. The Company contends that the certification and the subsequent contract constitute a bar to a present determination of representatives. Since the certification is over 2 years old, and the contract has been in effect for over a year and is terminable at any time on 60 days' written notice, we find that the certification and the contract are not a bar to this proceeding.

A statement of the Acting Regional Director, introduced into evidence at the hearing, indicates that the Teamsters represents a substantial number of employees in the unit hereinafter found to be appropriate.⁴

We find that a question affecting commerce has arisen concerning the representation of employees of the Company within the meaning of Section 9 (c) and Section 2 (6) and (7) of the Act.

IV. THE APPROPRIATE UNIT

The Teamsters seek a unit comprised of all outside truck drivers,⁵ exclusive of supervisory employees. The Company contends that a plant-wide unit constitutes an appropriate unit.

The record reveals that all outside truck drivers have been hired by the Company pursuant to an oral agreement with the Teamsters. The drivers are engaged in the operation of trucks outside the grounds of the Company; they are directed in their work by a truck dispatcher foreman who is under the supervision of the general storekeeper. All other drivers of the Company are employed in the sales and maintenance departments under different supervision. The Teamsters have been representing the truck drivers in the disposition of grievances, and the C. I. O. has waived any claim to representation of the truck drivers. The evidence presented herein indicates that the outside truck drivers form a distinct and homogeneous group. Under these circumstances, and in view of the waiver and disclaimer filed by the C. I. O., we are of the opinion that they may constitute an appropriate unit of they so desire. We shall, therefore, direct an election among those employees of the group engaged as outside truck drivers to determine whether or not they desire to be represented by the Teamsters. Upon the results of this election will depend in part our determination of the appropriate unit. If these employees select the Teamsters as their bargaining representatives, they shall constitute a separate appropriate unit; on the other hand, if they do not choose the Teamsters, they shall remain part of the plant-wide unit.

⁴ The statement of the Acting Regional Director shows that the Teamsters submitted nine authorization cards bearing apparently genuine signatures, eight of which appear on the August 14, 1943, pay roll of the Company, which contains the names of nine persons within the alleged appropriate unit.

⁵ The Teamsters do not seek to include drivers of other departments whose work consists of the chauffeuring of Cadillac sedans and the operation of vehicles inside and, occasionally, outside the plant grounds.

V. THE DETERMINATION OF REPRESENTATIVES

We shall direct that the question concerning representation which has arisen be resolved by means of an election by secret ballot among the employees in the group indicated in the Direction of Election below, who were employed during the pay-roll period immediately preceding the date of the Direction of Election herein, subject to the limitations and additions set forth in the Direction.

DIRECTION OF ELECTION

By virtue of and pursuant to the power vested in the National Labor Relations Board by Section 9 (c) of the National Labor Relations Act, and pursuant to Article III, Section 9, of National Labor Relations Board Rules and Regulations—Series 3, it is hereby

DIRECTED that, as part of the investigation to ascertain representatives for the purposes of collective bargaining with Electro-Motive Division of General Motors Corporation, McCook, Illinois, an election by secret ballot shall be conducted as early as possible, but not later than thirty (30) days from the date of this Direction, under the direction and supervision of the Regional Director for the Thirteenth Region, acting in this matter as agent for the National Labor Relations Board, and subject to Article III, Sections 10 and 11, of said Rules and Regulations, among all outside truck drivers employed by the Company at its McCook, Illinois, plant, excluding all supervisory employees with authority to hire, promote, discharge, discipline, or otherwise effect changes in the status of employees, or effectively recommend such action, who were employed during the pay-roll period immediately preceding the date of this Direction, including employees who did not work during said pay-roll period because they were ill or on vacation or temporarily laid off, and including employees in the armed forces of the United States who present themselves in person at the polls, but excluding any persons who have since quit or been discharged for cause and have not been rehired or reinstated prior to the date of the election, to determine whether or not they desire to be represented by General Teamsters, Chauffeurs & Helpers' Union of Maywood and Vicinity, Local No. 782, International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America, A. F. of L., for the purposes of collective bargaining.

MR. GERARD D. REILLY took no part in the consideration of the above Decision and Direction of Election.